

FACTUAL HISTORY

On September 29, 2014 appellant, then a 60-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on September 10, 2013³ she injured her right index finger while casing mail. Specifically, she noted hitting her finger on an iron case, full of mail. Appellant stopped work on September 9, 2013 and returned to work in a limited capacity on September 11, 2013. The employing establishment advised that appellant had been released to full duty on July 6, 2013, after recovering from a prior right index finger injury.

In a November 12, 2014 letter, OWCP notified appellant of the deficiencies in her claim. It advised her to submit a physician's opinion, supported by a medical explanation, as to how the reported work incident caused a diagnosed condition. OWCP did not receive a response.

In a December 30, 2014 decision, OWCP denied appellant's claim finding that she failed to submit medical evidence establishing a diagnosed condition in connection with the work-related incident.

On January 29, 2015 appellant requested reconsideration. In an accompanying January 29, 2015 statement, she explained that she was placing mail into a wire case on September 10, 2013 and hit her right index finger twice. Appellant reported swelling and a popping sensation in her right index finger. She also indicated that a medical specialist advised her against further mail casing.

In a February 11, 2015 decision, OWCP denied appellant's request for reconsideration finding that the evidence was insufficient to warrant a merit review.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking compensation under FECA has the burden of establishing the essential elements of his or her claim by the weight of reliable, probative, and substantial evidence,⁴ including that he or she is an "employee" within the meaning of FECA and that he or she filed his or her claim within the applicable time limitation.⁵ The employee must also establish that he or she sustained an injury in the performance of duty as alleged and that his or her disability for work, if any, was causally related to the employment injury.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment

³ The employing establishment indicated in a separate portion of the form that the claimed injury occurred on September 9, 2013.

⁴ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

⁵ *R.C.*, 59 ECAB 427 (2008).

⁶ *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

incident at the time, place, and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁸

ANALYSIS -- ISSUE 1

There is no dispute that appellant was casing mail. However, the Board finds that appellant has not submitted medical evidence to establish that a diagnosed right index finger condition was caused or aggravated by the employment incident.

In a November 12, 2014 letter, OWCP advised appellant of the type of medical evidence needed to establish her claim. Appellant failed to provide the requested documentation. The record, therefore, does not contain any medical opinion explaining how the employment incident caused or contributed to a diagnosed medical condition. As appellant failed to submit any medical evidence, she did not meet her burden of proof to establish her claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

LEGAL PRECEDENT -- ISSUE 2

To require OWCP to reopen a case for merit review under section 8128(a) of FECA, its regulations provide that a claimant must: (1) show that OWCP erroneously applied or interpreted a specific point of law; (2) advance a relevant legal argument not previously considered by OWCP; or (3) constitute relevant and pertinent new evidence not previously considered by OWCP.⁹ Where the request for reconsideration fails to meet at least one of these standards, OWCP will deny the application for reconsideration without reopening the case for review of the merits.¹⁰

⁷ *T.H.*, 59 ECAB 388 (2008).

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ 20 C.F.R. § 10.606(b)(3); *see J.M.*, Docket No. 09-218 (issued July 24, 2009).

¹⁰ *Id.* at § 10.608(b); *see K.H.*, 59 ECAB 495, 499 (2008).

ANALYSIS -- ISSUE 2

OWCP had denied appellant's traumatic injury claim, finding that there had been no medical evidence to establish a medical condition causally related to her federal employment. Appellant requested reconsideration on January 29, 2015 and submitted a statement in support of her request. On February 11, 2015 OWCP denied her reconsideration request without a merit review.

The Board finds that OWCP properly denied appellant's reconsideration request. Appellant's January 29, 2015 statement describing how her injury occurred does not advance a relevant legal argument not previously considered, or show that OWCP erroneously applied or interpreted a specific point of law. The underlying issue in this case, whether the claimed right index finger injury is causally related to the September 10, 2013 work incident, is medical in nature. Although the January 29, 2015 statement by appellant is new to the record, it is not relevant to the underlying issue which is medical in nature and calls for a rationalized medical opinion.¹¹ No other evidence accompanied the reconsideration request.

Consequently, appellant did not meet any of the three criteria for reopening a claim for a merit review.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish a traumatic injury in the performance of duty. The Board further finds that OWCP properly denied her request for reconsideration without a merit review of her claim pursuant to 5 U.S.C. § 8128(a).

¹¹ C.N., Docket No. 08-1569 (issued December 9, 2008) (evidence that does not address the particular issue involved does not constitute a basis for reopening a case).

ORDER

IT IS HEREBY ORDERED THAT the February 11, 2015 and December 30, 2014 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 5, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board